

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Samuel Ross	Team: Squad #6	CCRB Case #: 201708090	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/23/2017 12:45 AM	Location of Incident: [REDACTED]	Precinct: 77	18 Mo. SOL 12/23/2018	EO SOL 12/23/2018	
Date/Time CV Reported Tue, 10/03/2017 1:40 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/03/2017 1:40 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Feeley	02768	944550	077 PCT
2. Officers			077 PCT
3. POM Alex Viera	14168	945080	077 PCT
4. POM Craig Mcgrath	26900	955165	077 PCT
5. POM Matthew Rosiello	20090	951180	077 PCT
6. POM Steven Rupnick	27055	955426	077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Avinash Patel	05322	940551	077 PCT
2. POM Allen Haynes	10102	956729	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Feeley	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Brian Feeley strip-searched § 87(2)(b)	[REDACTED]
B.POM Alex Viera	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Alex Viera strip-searched § 87(2)(b)	[REDACTED]
C.POM Steven Rupnick	Force: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick used physical force against § 87(2)(b)	[REDACTED]
D.POM Matthew Rosiello	Force: In front of 1307 Pacific Street in Brooklyn, Police Officer Matthew Rosiello used physical force against § 87(2)(b)	[REDACTED]
E. Officers	Discourtesy: In front of 1307 Pacific Street in Brooklyn, officers spoke discourteously to § 87(2)(b)	[REDACTED]
F.POM Steven Rupnick	Discourtesy: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick spoke discourteously to § 87(2)(b)	[REDACTED]
G.POM Steven Rupnick	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick interfered with § 87(2)(b)s use of a recording device.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.POM Steven Rupnick	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened § 87(2)(b) with the use of force.	
I.POM Steven Rupnick	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened an individual with the use of force.	
J.POM Steven Rupnick	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened to arrest § 87(2)(b)	
K.POM Steven Rupnick	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened to arrest an individual.	
L.POM Brian Feeley	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Brian Feeley threatened to arrest individuals.	
M.POM Brian Feeley	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Brian Feeley interfered with individuals' use of a recording device.	
N.POM Alex Viera	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Alex Viera threatened to arrest individuals.	
O.POM Alex Viera	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Alex Viera interfered with individuals' use of a recording device.	
P.POM Craig Mcgrath	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Craig Mcgrath threatened to arrest individuals.	
Q.POM Craig Mcgrath	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Craig Mcgrath interfered with individuals' use of a recording device.	
R.POM Matthew Rosiello	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Matthew Rosiello threatened to arrest individuals.	
S.POM Matthew Rosiello	Abuse: In front of 1307 Pacific Street in Brooklyn, Police Officer Matthew Rosiello interfered with individuals' use of a recording device.	
T.POM Brian Feeley	Abuse: At the 77th Precinct stationhouse, Police Officer Brian Feeley strip-searched § 87(2)(b)	
U.POM Alex Viera	Abuse: At the 77th Precinct stationhouse, Police Officer Alex Viera strip-searched § 87(2)(b)	
V.POM Craig Mcgrath	Abuse: At the 77th Precinct stationhouse, Police Officer Craig Mcgrath strip-searched § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via telephone on October 3, 2017.

On June 23, 2017, at approximately 12:45 AM, PO Brian Feeley of the 77th Precinct Anti-Crime team arrested § 87(2)(b) outside of 1307 Pacific Street for § 87(2)(b). Also present for the ensuing interaction were PO Alex Viera, PO Craig McGrath, PO Steven Rupnick, and PO Matthew Rosiello of the 77th Precinct Anti-Crime team.

At the scene of the arrest, after placing § 87(2)(b) in handcuffs, PO Feeley and PO Viera allegedly reached inside of § 87(2)(b) underwear, and PO Viera allegedly pulled § 87(2)(b) shorts down to his knees, exposing his underwear (**Allegation A: Abuse of Authority, § 87(2)(g)**; **Allegation B: Abuse of Autprobhority, § 87(2)(g)**). PO Rupnick then allegedly punched § 87(2)(b) once in the ribs (**Allegation C: Force, § 87(2)(g)**) and PO Rosiello allegedly elbowed § 87(2)(b) in the ribs (**Allegation D: Force, § 87(2)(g)**). When § 87(2)(b) complained, unspecified officers allegedly said to him, “Shut the fuck up,” “Stay still you fucking asshole,” and “You’re going to fucking jail,” and referred to § 87(2)(b) as a “piece of shit” (**Allegation E: Discourtesy, § 87(2)(g)**).

§ 87(2)(b) a bystander, attempted to record a video of the incident. PO Rupnick allegedly said to § 87(2)(b) “Turn that fucking camera off before I shove it down your throat,” (**Allegation F: Discourtesy, § 87(2)(g)**; **Allegation G: Abuse of Authority, § 87(2)(g)**; **Allegation H: Abuse of Authority, § 87(2)(g)**). PO Rupnick also allegedly said to § 87(2)(b) and another, unidentified bystander, “I’m gonna smack y’all” (also **Allegation H: Abuse of Authority, § 87(2)(g)**; **Allegation I: Abuse of Authority, § 87(2)(g)**). Further, PO Rupnick allegedly said to § 87(2)(b) and the unidentified bystander, “Y’all are going to get arrested” (**Allegation J: Abuse of Authority, § 87(2)(g)**; **Allegation K: Abuse of Authority, § 87(2)(g)**). PO Feeley, PO Viera, PO McGrath, and PO Rosiello also allegedly told § 87(2)(b) and the unidentified bystander that they would be arrested if they did not stop recording (**Allegation L: Abuse of Authority, § 87(2)(g)**; **Allegation M: Abuse of Authority, § 87(2)(g)**; **Allegation N: Abuse of Authority, § 87(2)(g)**; **Allegation O: Abuse of Authority, § 87(2)(g)**; **Allegation P: Abuse of Authority, § 87(2)(g)**; **Allegation Q: Abuse of Authority, § 87(2)(g)**; **Allegation R: Abuse of Authority, § 87(2)(g)**; **Allegation S: Abuse of Authority, § 87(2)(g)**).

Subsequently, § 87(2)(b) was placed under arrest and transported to the 77th Precinct stationhouse. There, PO Feeley, PO Viera, and PO McGrath allegedly strip-searched § 87(2)(b) (**Allegation T: Abuse of Authority, § 87(2)(g)**; **Allegation U: Abuse of Authority, § 87(2)(g)**; **Allegation V: Abuse of Authority, § 87(2)(g)**). Due to the officers’ concerns that § 87(2)(b) had inserted narcotics into his anal cavity, § 87(2)(b) was transported to § 87(2)(b) in Brooklyn, where he refused to undergo a digital exam. He was then returned to the 77th Precinct stationhouse.

§ 87(2)(b) was arrested and charged with § 87(2)(b)

The investigation obtained cell phone video footage capturing a brief portion of the incident.

Findings and Recommendations

Allegation A—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Brian Feeley strip-searched § 87(2)(b)

Allegation B—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Alex Viera strip-searched § 87(2)(b)

An attorney was consulted with regard to these allegations.

Initially, PO Feeley, PO Viera, and PO McGrath approached § 87(2)(b) in order to place him under arrest for alleged possession of crack cocaine.

§ 87(2)(b) (Board Review 01) stated that after the officers frisked and searched him, PO Feeley reached into the front of his underwear, searching around his genitals. Meanwhile, PO Viera reached into the rear of his underwear, searching between his buttocks. § 87(2)(b) protested, asking, “What the fuck are you touching my dick for?” and, “Why are you going in my butt?” Subsequently, PO Viera pulled § 87(2)(b) shorts down to his knees, revealing his underwear.

§ 87(2)(b) (Board Review 02), a bystander, stated that when the officers placed § 87(2)(b) against a vehicle, he was positioned on the other side of the car from § 87(2)(b) and the officers. As such, he could not see exactly what was taking place. He could only see § 87(2)(b) head and the officers standing behind him. § 87(2)(b) screamed “What are y’all doing? Why y’all going in my butt?” However, § 87(2)(b) could not see what the officers were doing at this time. He could not see if any officer reached into § 87(2)(b) pants.

As noted above, the investigation obtained cell phone video footage of the incident:



201708090_20171005_1537_DM.3gp

Incident Video (Linked to IA #9)

1 minute 14 seconds

Note: Must be played via VLC; playable directly from IAs

The video image is of poor quality but includes audio. Between the beginning of the video and the 10 second mark, § 87(2)(b) voice is audible asking, “Why you going in my butt for, officer?” Numerous plainclothes police officers are gathered around him, largely shielding him from view. Between the 1 minute 5 second mark and the end of the video, § 87(2)(b) says, “You going in my butt, officer,” and, “You digging in my butt.” Due to its poor quality, the video does not reveal whether or not any officer reached into § 87(2)(b) pants.

PO McGrath (Board Review 03) stated that as he frisked the exterior of § 87(2)(b) s pants he felt a rocky substance between § 87(2)(b) buttocks. PO McGrath had made several arrests involving crack cocaine and, based on his experience, this object felt like a rock of crack cocaine. However, he did not directly observe the object. PO McGrath did not remember if, when he made

contact with the object in question through § 87(2)(b) pants, § 87(2)(b) made any comment.

PO Feeley (Board Review 04) also stated that when PO McGrath frisked § 87(2)(b) PO McGrath stated there was a “rock in his underwear.” PO Feeley observed § 87(2)(b) holding an object slightly smaller than a golf ball through § 87(2)(b) basketball shorts. PO Feeley did not make any physical contact with this object. It appeared to be located between § 87(2)(b) buttocks, against his skin. When PO McGrath said that he felt a rock inside of § 87(2)(b) shorts, § 87(2)(b) began to yell, but PO Feeley did not recall what statements § 87(2)(b) made. Given his earlier observation that § 87(2)(b) was holding a twist of crack cocaine – the observation which led to § 87(2)(b) arrest – PO Feeley assumed that the object in § 87(2)(b) shorts was more crack cocaine. PO Feeley planned to recover the suspected narcotics at the stationhouse and did not attempt to do so on scene.

PO McGrath, PO Feeley, and PO Viera (Board Review 05) each denied that they or any other officer reached inside of § 87(2)(b) pants or underwear or pulled his pants down. They maintained that no officer strip-searched § 87(2)(b) and that § 87(2)(b) never complained of any such behavior.

During their CCRB interviews, PO McGrath, PO Feeley, and PO Viera reviewed the incident video embedded above. They listened that § 87(2)(b) complaint that an officer was “going in [his] butt.” Each maintained that no officer reached into § 87(2)(b) pants or strip-searched him.

Neither PO Rupnick (Board Review 06) nor PO Rosiello (Board Review 07) recalled their involvement in § 87(2)(b) arrest while on scene. They recalled only a portion of the incident occurring later, at the 77th Precinct stationhouse, addressed below in the analyses of Allegations T, U and V. They did not recall any officer strip-searching § 87(2)(b) Both officers reviewed the incident video and accompanying audio, but it did not specifically refresh their respective recollections.

According to NYPD Patrol Guide Procedure 208-05 (Board Review 08), a strip search is any search in which § 87(2)(b)s undergarments and/or private areas are exposed or in which § 87(2)(b)s clothing is removed, lifted up, or pulled down to expose undergarments or private areas. A strip search may only be conducted when the arresting officer reasonably believes that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by standard search methods.

§ 87(2)(g)
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Allegation C—Force: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick used physical force against § 87(2)(b)

Allegation D—Force: In front of 1307 Pacific Street in Brooklyn, Police Officer Matthew Rosiello used physical force against § 87(2)(b)

§ 87(2)(b) stated that when unspecified officers attempted to pull him to the ground, he widened his stance and stiffened his legs. In response, PO Rupnick punched him once on the left side of his ribs, and PO Rosiello elbowed him once in his ribs. In response, § 87(2)(b) screamed, “I’m cuffed. Why you doing that?”

§ 87(2)(b) stated that due to his position on the far side of a stationary vehicle, he was unable to see whether or not any officer used physical force against § 87(2)(b)

In the incident video, embedded above and playable directly from IA #9 of the digital case file, between the 27 second mark and the 53 second mark, § 87(2)(b) yells, “Why you doing that to me for?” and “What was you doing that to me for?” He then yells, six times, “I’m cuffed.” As noted, the video image is of poor quality. Further, numerous plainclothes police officers are gathered around § 87(2)(b) largely shielding him from view. The video does not appear to capture any officer striking § 87(2)(b) or capture any sudden movements apparently corresponding to any strikes.

Also as noted above, neither PO Rupnick nor PO Rosiello recalled their involvement in § 87(2)(b) arrest while on scene. Neither recalled using any physical force against § 87(2)(b) Note that the officers provided statements to the CCRB approximately one year after the date of the incident.

No TRI reports were prepared in regards to this incident (Board Review 09).

The video captures § 87(2)(b) making the statements which, according to his testimony, he made in response to officers using force against him. However, the video does not appear to show any use of force leading up to or at the time of these statements. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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§ 87(2)(b)

§ 87(2)(b)

Allegation E—Discourtesy: In front of 1307 Pacific Street in Brooklyn, officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that when he complained about PO Rupnick and PO Rosiello's respective uses of force, officers said to him, "Shut the fuck up," "Stay still you fucking asshole," "and "You're going to fucking jail." § 87(2)(b) was unable to determine which officers made these remarks.

§ 87(2)(b) stated that officers used some profanity during the incident but did not specify who did so or what remarks they made.

PO Feeley, PO Viera, PO McGrath, PO Rupnick, and PO Rosiello each either denied or stated that they did not recall using profanity toward § 87(2)(b). Further, they either denied or did not recall any other officer doing so.

The incident video, embedded above and playable directly from IA #9 of the digital case file, does not capture any officer's audible use of profanity. However, as noted, the video did not capture the entirety of the arrest.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F—Discourtesy: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick spoke discourteously to § 87(2)(b)

Allegation G—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick interfered with § 87(2)(b)'s use of a recording device.

Allegation H—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened § 87(2)(b) with the use of force.

Allegation I—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened § 87(2)(b) with the use of force.

Allegation J—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened to arrest § 87(2)(b)

Allegation K—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Steven Rupnick threatened to arrest § 87(2)(b)

According to § 87(2)(b) multiple bystanders observed the incident. Among the bystanders, § 87(2)(b) was familiar only with § 87(2)(b) and § 87(2)(b) known to him only as "Ace." Both § 87(2)(b) and Ace attempted to record videos the incident. PO Rupnick and PO Rosiello approached § 87(2)(b) and PO Rupnick said to him, "You better turn that fucking camera off before I shove it down your throat." Additionally, addressing both § 87(2)(b) and Ace, PO Rupnick said, "I'm gonna smack y'all," and "Y'all are gonna get arrested."

§ 87(2)(b) stated that an officer standing directly in front of him instructed him to stop recording a video of the incident and threatened to take his phone from him. The same officer also told § 87(2)(b) that he could be arrested. As noted above, § 87(2)(b) stated that officers used some profanity during the incident, but he did not specify who did so or what remarks they made.

PO Rupnick did not recall interacting with any bystander who was attempting to record the incident. He did not recall using profanity toward any bystander, interfering with any bystander's ability to record the incident, threatening any bystander with the use of force, or threatening to arrest any bystander.

PO Feeley, PO Viera, PO McGrath, and PO Rosiello each either denied or stated that they did not recall any officer making any of the specific statements alleged here, using profanity toward any bystander, threatening any bystander with the use of force or with arrest, or interfering with any bystander's ability to record the incident.

The incident video did not capture any officer making any of the alleged remarks. However, the incident video captured only a portion of the incident in question.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation L—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Brian Feeley threatened to arrest individuals.

Allegation M—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Brian Feeley interfered with individuals' use of a recording device.

Allegation N—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Alex Viera threatened to arrest individuals.

Allegation O—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Alex Viera interfered with individuals' use of a recording device.

Allegation P—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Craig McGrath threatened to arrest individuals.

Allegation Q—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Craig McGrath interfered with individuals' use of a recording device.

Allegation R—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Matthew Rosiello threatened to arrest individuals.

Allegation S—Abuse of Authority: In front of 1307 Pacific Street in Brooklyn, Police Officer Matthew Rosiello interfered with individuals' use of a recording device.

During his CCRB interview, when asked if any officers other than PO Rupnick told civilians that they would be arrested if they did not stop recording the incident, § 87(2)(b) stated that all of the officers on scene said this to civilians during the incident. He provided no more specific testimony in regards.

As noted, § 87(2)(b) stated that one officer told him to stop recording and that he could be arrested. However, he did not allege that any other officer did so.

PO Feeley, PO Viera, PO McGrath, and PO Rosiello each either denied or stated that they did not recall interfering with any bystander's ability to record the incident, and either denied or did not recall telling any bystander that they could or would be arrested.

The incident video did not capture any officer making any of the alleged remarks. However, the incident video captured only a portion of the incident in question.

§ 87(2)(g)

Allegation T—Abuse of Authority: At the 77th Precinct stationhouse, Police Officer Brian Feeley strip-searched § 87(2)(b)

Allegation U—Abuse of Authority: At the 77th Precinct stationhouse, Police Officer Alex Viera strip-searched § 87(2)(b)

Allegation V—Abuse of Authority: At the 77th Precinct stationhouse, Police Officer Craig McGrath strip-searched § 87(2)(b)

An attorney was consulted with regard to these allegations.

§ 87(2)(b) stated that at the scene of his arrest, an officer said that he felt something between § 87(2)(b) buttocks. § 87(2)(b) responded that the officers should conduct a strip-search at their precinct stationhouse. § 87(2)(b) was placed in a vehicle and driven to the 77th Precinct stationhouse. There, PO Feeley, PO Viera, and PO McGrath brought § 87(2)(b) to a hallway. They instructed him to remove his clothing, squat, and cough. He complied, and the strip-search did not reveal any weapon or contraband. The officers then lodged § 87(2)(b) in a holding cell. Subsequently, two uniformed officers with whom § 87(2)(b) had not previously interacted escorted § 87(2)(b) to a hospital. There, a doctor told § 87(2)(b) that they could not perform a cavity search without his consent. § 87(2)(b) declined to consent to this search. § 87(2)(b) underwent x-ray imaging, but this test did not show any foreign object inside of § 87(2)(b) body. § 87(2)(b) was then returned to the 77th Precinct stationhouse.

As noted above, PO Feeley and PO McGrath stated that during the arrest, while PO McGrath frisked § 87(2)(b) over § 87(2)(b) shorts, PO McGrath took hold of a rock-like substance located between § 87(2)(b) buttocks. They maintained that they made no effort to recover this object from inside of § 87(2)(b) clothing while on scene, and PO Feeley stated that he planned to do so at the stationhouse.

PO Feeley stated that en route to the 77th Precinct stationhouse, in a vehicle, § 87(2)(b) who was rear-cuffed, repeatedly reached into the rear of his basketball shorts. Upon arrival at the stationhouse, officers brought § 87(2)(b) to the desk. There, § 87(2)(b) continued to reach into the rear of his shorts. PO Feeley instructed § 87(2)(b) to remove his hands from his shorts but § 87(2)(b) ignored him. Then, with his hands inside of his shorts, § 87(2)(b) made a

strained facial expression. PO Feeley re-frisked the rear of § 87(2)(b) shorts and did not feel any object there. PO McGrath also re-frisked § 87(2)(b) and confirmed he did not feel any object where he had previously felt something. As such, PO Feeley believed that § 87(2)(b) had pushed a quantity of crack cocaine (which PO McGrath had previously felt through § 87(2)(b) shorts) into his anal cavity. PO Feeley told Sgt. Patel, the Anti-Crime supervisor, what he believed to have occurred, and Sgt. Patel instructed him to call an ambulance. Subsequently, officers escorted § 87(2)(b) to the hospital, but PO Feeley did not join them. PO Feeley stated that neither he nor, to his knowledge, any other officer strip-searched § 87(2)(b) at the 77th Precinct stationhouse.

During his CCRB interview, PO Feeley reviewed the medical treatment of prisoner report prepared for § 87(2)(b) (Board Review 10), which states, “While searching prisoner injected crack cocaine into his anal cavity.” PO Feeley confirmed that he prepared this portion of the report. The report also states, in different handwriting, “Assessment & recommendation: There is no xray that will show the above. Digital exam would need to be done, which the patient refuses. Pt denies doing this and understands the risk and danger of doing this.” PO Feeley believed this portion of the document to have been completed by medical personnel at the hospital.

PO McGrath stated that he did not hear any officer voice concern about § 87(2)(b) reaching into his pants during § 87(2)(b) transport to the stationhouse. However, while § 87(2)(b) was in front of the stationhouse desk, he reached into the rear of his pants, made a strained facial expression, and grunted. When PO McGrath re-frisked § 87(2)(b) in the same area where he had previously felt a rock-like object, he could no longer feel it. PO McGrath, like PO Feeley, believed that § 87(2)(b) had inserted crack into his anal cavity. PO McGrath also did not escort § 87(2)(b) to the hospital. Sgt. Patel was present at this time and gave no instruction or authorization for a strip-search. According to PO McGrath, no officer strip-searched § 87(2)(b) at the stationhouse.

PO Viera rode with PO Feeley and § 87(2)(b) to the 77th Precinct stationhouse. He was at the desk with them briefly and did not hear any conversation about a strip-search. He exited the stationhouse within five minutes of his arrival there in order to purchase food from a nearby deli. When he returned to the stationhouse, § 87(2)(b) was lodged in a holding cell. Subsequently, PO Feeley informed PO Viera that § 87(2)(b) was being transported to a hospital, but PO Viera did not learn the reason for this. He did not learn about the possibility of § 87(2)(b) having inserted crack into his anal cavity. PO Viera stated that he did not participate in conducting a strip-search of § 87(2)(b) and did not learn that any officers did so.

Sgt. Patel (Board Review 11) stated that when he learned that PO Feeley had made an arrest, he instructed his officers to meet him at the 77th Precinct stationhouse. Sgt. Patel arrived at the stationhouse before the other members of the Anti-Crime team and § 87(2)(b). When PO Feeley, PO McGrath, and PO Viera arrived with § 87(2)(b) they brought him to the desk. Sgt. Patel went behind the desk in order to stamp § 87(2)(b) into the command log. § 87(2)(b) was rear-cuffed at this time. While Sgt. Patel entered § 87(2)(b) information into the command log, an officer said, “He’s pushing it down.” § 87(2)(b) hands were rear-cuffed, behind his back, and Sgt. Patel could see only § 87(2)(b) front side. He could not see what § 87(2)(b) was doing with his hands and could not see if § 87(2)(b) hands were in his pants. § 87(2)(b) grimaced and grunted. An officer standing next to § 87(2)(b) then said that § 87(2)(b) was pushing crack cocaine into his anal cavity. Because an officer said this, and

because of the sound § 87(2)(b) had made, combined with his facial expression, Sgt. Patel believed that § 87(2)(b) had inserted something into his anal cavity. Sgt. Patel asked the officers to keep § 87(2)(b) hands away from his body, but § 87(2)(b) appeared to have been successful in his effort to insert something into his anal cavity.

Because Sgt. Patel and the other officers suspected that § 87(2)(b) had inserted crack cocaine into his anal cavity, Sgt. Patel instructed his officers to call for an ambulance to bring § 87(2)(b) to a hospital, per protocol. The officers did not take any steps to retrieve any contraband suspected to have been instead into § 87(2)(b) anal cavity. Sgt. Patel did not instruct the officers to perform a strip-search. They did not perform a strip-search and Sgt. Patel did not participate in any strip search. The officers believed him to have inserted drugs into anal cavity and so a strip-search would not have been of any use.

An officer called for an ambulance. Sgt. Patel remained in the desk area with § 87(2)(b) while waiting for the ambulance. § 87(2)(b) did not move to any other area of the stationhouse and did not leave Sgt. Patel's sight while they waited. When an ambulance arrived, EMS personnel brought § 87(2)(b) to a hospital. Sgt. Patel did not go with him. Sgt. Patel later learned that at the hospital, § 87(2)(b) denied inserting anything into his anal cavity, and that hospital discharged him without taking any additional steps.

In a memo book entry pertaining to the incident (Board Review 12), Sgt. Patel wrote, "During safety search prisoner did push down white subst. possibly crack cocaine up anal cavity."

Both PO Rosiello and PO Rupnick stated that they did not participate in any strip-search at the stationhouse and were unaware of any other officers conducting a strip-search.

Note that the command log entry pertaining to the incident (Board Review 13) does not include any indication that officer strip-searched § 87(2)(b)

According to both the medical treatment of prisoner report and the command log, § 87(2)(b) was transported to § 87(2)(b) in Brooklyn. The investigation submitted a subpoena for § 87(2)(b) medical records to § 87(2)(b) but received no records. According to the hospital's medical records department, they have no record of § 87(2)(b) visiting the hospital since 2000.

§ 87(2)(b)

Also note that, according to the criminal court complaint pertaining to the arrest (Board Review 15), § 87(2)(b) may have disposed of or attempted to dispose of narcotics in a toilet at the 77th Precinct station house. However, neither Sgt. Patel nor PO McGrath recalled any such incident and did not know why the criminal court complaint indicated that this took place.

As noted above, according to NYPD Patrol Guide Procedure 208-05 (Board Review 08), a strip search is any search in which an individual's undergarments and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas. A strip search may only be conducted when the arresting officer

reasonably believes that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by standard search methods.

It is undisputed that upon at the stationhouse, the officers believed § 87(2)(b) to have secreted narcotics between his buttocks—the very type of secretion for which officers are intended to conduct a strip-search. However, the officers, including the Anti-Crime supervisor, who was not present at the scene of the arrest, testified that they believed § 87(2)(b) to have inserted narcotics into his anal cavity and, as a result, immediately called for an ambulance. As such, they did not believe that a strip-search would yield any result and considered such a step to be unnecessary. Both the medical treatment of prisoner report and Sgt. Patel’s memo book entry corroborate this account. § 87(2)(g)

§ 87(2)(g)

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Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 16).
- PO Feeley has been a member of service for eleven years and has been a subject in seven other cases with ten allegations (Board Review 17). In Case #200907430 it was alleged that PO Feeley stopped § 87(2)(b). That allegation was unsubstantiated. In Case #201007321 it was alleged that PO Feeley used profanity toward a civilian. That allegation was unsubstantiated. In Case #201506396 it was alleged that PO Feeley fired his gun at a civilian. That case is pending investigation.
- PO Viera has been a member of service for eleven years and has been a subject in eleven other cases with twenty-two allegations (Board Review 18). In Case #201106683 it was alleged that PO Viera used profanity toward § 87(2)(b). That allegation was unsubstantiated. In Case #201706371 it was alleged that PO Viera stopped a vehicle, frisked § 87(2)(b) and used profanity toward § 87(2)(b). Those allegations were substantiated. The Board recommended charges and the NYPD has not yet imposed discipline.
- PO McGrath has been a member of service for five years and has been a subject in six other cases with fourteen allegations (Board Review 19). In Case #201607777 it was alleged that PO McGrath threatened to arrest § 87(2)(b). That allegation was

truncated. In Case #201703728 it was alleged that PO McGrath threatened § 87(2)(b) with the use of force. That allegation was unsubstantiated. In Case #201708435 it was alleged that PO McGrath spoke discourteously to a civilian. That case has not yet been closed by the Board.

- PO Rosiello has been a member of service for seven years and has been a subject in five other cases with five allegations (Board Review 20). In Case #201209645 it was alleged that PO Rosiello spoke discourteously to a civilian. That allegation was unsubstantiated. In Case #201309571 it was alleged that PO Rosiello hit a civilian against an inanimate object. That allegation was unsubstantiated. In Case #201506396 it was alleged that PO Rosiello fired his gun at a civilian. That case is pending investigation.
- PO Rupnick has been a member of service for five years and has been a subject in one other case with one allegation (Board Review 21). In Case #20160777 it was alleged that PO Rupnick threatened to arrest § 87(2)(b). That allegation was truncated.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On December 5, 2017, a request was submitted to the New York City Office of the Comptroller for any Notice of Claim filed in regards to this incident. A second request was submitted on August 23, 2018. As of the writing of this report, no response has yet been received. It will be enclosed upon receipt.

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date